

# **6 FAM 550**

## **REPORTING REQUIREMENTS**

### **6 FAM 551 CHARTER**

*(TL:GS-35; 1-19-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

a. All employee associations must operate under a charter approved by its board of directors and the Assistant Secretary for Administration. The charter shall clearly describe all services to be provided by the association. Any proposed changes in the services provided under an approved charter must also be submitted to the Assistant Secretary for Administration for approval. The charter shall follow the format provided by A/OPR/ST/CR.

b. In the absence of an approved charter, no association will be authorized to operate on U.S. Government-owned or -leased property and/or under U.S. Government auspices. Without a charter, associations may not import duty-free products under the name of the principal officer, operate as a U.S.G. instrumentality under federal tax provisions, receive loans or grants from the Central Commissary and Recreation Fund, receive assistance from the Office of Commissary and Recreation Affairs, or receive support (space, utilities, properties, etc.) from the post.

#### **6 FAM 551.1 Trusteeship**

*(TL:GS-35; 1-19-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

a. If an association is determined to have been mismanaged, upon the recommendation of the Central Commissary and Recreation Fund Board Chairperson, A/OPR/ST/CR shall place the association in trusteeship status. The association board may be disbanded, if necessary, and the association monitored and guided by the principal officer (trustee) or his or her designee (trustee's representative). A management plan will be developed by the association trustee and A/OPR/ST/CR to resolve management deficiencies.

b. In order to ensure orderly management of assets and obligations in the event of dissolution or temporary closing of an employee association due to reduction or closing of post operations, or if for other reasons personnel are not available at the post to act on behalf of the members as authorized pursuant to association charters or bylaws, the principal officer is hereby delegated authority to act as trustee on behalf of the employee association subject to these regulations. In the event the principal officer cannot act at the post as otherwise authorized by this paragraph, the executive director of the

regional bureau is hereby authorized to act as trustee on behalf of the employee association, in coordination with A/OPR/ST/CR.

## **6 FAM 551.2 Charter Revocation**

*(TL:GS-35; 1-19-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

If an association is determined to have been continuously mismanaged, and is not in compliance with the charter and these regulations; or creates a significant embarrassment to the mission or U.S. Government, upon the recommendation of the Central Commissary and Recreation Fund Board, the Assistant Secretary for Administration has the authority to revoke the charter and close down the association.

## **6 FAM 552 BYLAWS**

*(TL:GS-35; 1-19-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

On the establishment of an overseas employee association, a copy of its bylaws must be sent to the Department (A/OPR/ST/CR). In addition, a current copy of the bylaws of existing employee associations, with amendments, if any, must be provided to the Department.

## **6 FAM 553 ANNUAL QUESTIONNAIRE**

*(TL:GS-35; 1-19-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

a. Employee associations are to submit responses to an annual questionnaire on association operations. The questionnaire must be completed in full in the standard format provided, and is due to A/OPR/ST/CR by that office's deadline.

b. This questionnaire will contain an annual certification statement for the principal officer's approval and a remittance statement pertaining to the annual assessment.

## **6 FAM 554 ANNUAL CERTIFICATION**

*(TL:GS-35; 1-19-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

a. An annual certification statement signed by the principal officer, or the principal officer's designee, is to be sent to A/OPR/ST/CR by the deadline determined by that office. A sample format for this certification will be provided

with the annual questionnaire sent to associations each year. The certification statement must:

(1) Certify that the operations of the association are managed prudently and in accordance with 6 FAM 500 regulations and the laws of the host government, to the extent that they do not contravene U.S. federal law; or

(2) Alternatively, identify in detail, where the operations are not in conformance with regulations or local laws and provide a plan and schedule for remedying the non-conformance.

b. Repeated or serious instances of noncompliance, failure to take remedial action, or false certifications shall be referred to the Director General (M/DGP) by the Assistant Secretary for Administration for appropriate disciplinary action.

## **6 FAM 555 ASSESSMENT**

*(TL:GS-35; 1-19-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

Employee associations shall remit an annual assessment payment to the Central Commissary and Recreation Fund. The assessment shall be a percentage of gross revenues as determined by the Central Commissary and Recreation Fund Board.

## **6 FAM 556 FEDERAL TAXES**

*(TL:GS-35; 1-19-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

Employee associations are United States Government instrumentalities for federal tax purposes. These requirements apply only to U.S. citizen employees of the Association and to U.S. resident alien employees temporarily located outside the U.S. Therefore, the employee association is subject to employer taxes under 26 U.S.C. 3121, and to withholding requirements under 26 U.S.C. 3404. These requirements do not apply to non-resident alien employees because such personnel are not within the United States' taxing jurisdiction for income tax, withholding purposes. As long as the association is chartered by and operates under the regulations of the U.S. Department of State, the association is not subject to direct taxes on its own income, nor is it required to pay federal unemployment taxes (26 U.S.C. 3306). Associations should contact regional IRS representatives to apply for employer identification numbers and appropriate forms for withholding.

## **6 FAM 557 FINANCIAL STATEMENTS AND AUDIT REPORT**

*(TL:GS-35; 1-19-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

a. A balance sheet and income statement must be submitted to the Board of Directors on a monthly basis. The association must also submit a balance sheet and income statement to the Department (A/OPR/ST/CR) by August 15 (for the period January 1 through June 30) and by May 1 (for the period July 1 through December 31). The financial statements must be certified by the Board Treasurer.

b. An audit report must also be submitted to the Department (A/OPR/ST/CR) by May 1 (for the period January 1 - December 31).

c. These submissions must be in U.S. dollars.

## **6 FAM 558 TERMINATION OF OPERATIONS**

*(TL:GS-35; 1-19-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

a. In the event of an association terminating its operations, it must prepare a final, certified financial disclosure statement which will indicate that all financial liabilities of the association have been met, will adequately reflect the sales of association inventories and assets, and the close-out of all association banking and investment accounts. This statement should be submitted to the Central Commissary and Recreation Fund Board, along with a check representing any residual association funds remaining. The Central Commissary and Recreation Fund Board will then, as instructed by the association, hold these funds in trust or on deposit. Association board officers or post personnel responsible for the formal termination of operations, who fail to adequately document the financial management of the close-out, may be held personally liable for lost/unaccountable funds.

b. Within ninety (90) days following the termination of an employee association's operations, any surpluses which are over and above any outstanding indebtedness (i.e., employee salaries, severance/retirement, IRS, or vendor invoices) and the deposits of the employees must be transferred to the Central Commissary and Recreation Fund. The transfer may be in the form of a contribution or as a temporary deposit which may be used by the Central Fund, but which will be returned to the employee association, or successor thereof, in accordance with the terms of transfer, or otherwise upon request with the approval of the Central Commissary and Recreation Fund Board.

## **6 FAM 559 UNASSIGNED**

